SENATE BILL NO. 237

INTRODUCED BY BOYLAN, MCCALLUM, KOLSTAD

IN THE SENATE

	IN THE SENATE
JANUARY 28, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
FEBRUARY 17, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 18, 1987	PRINTING REPORT.
FEBRUARY 19, 1987	SECOND READING, DO PASS.
FEBRUARY 20, 1987	ENGROSSING REPORT.
FEBRUARY 21, 1987	THIRD READING, PASSED. AYES, 47; NOES, 2.
	TRANSMITTED TO HOUSE.
	IN THE HOUSE
FEBRUARY 23, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
MARCH 11, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 14, 1987	SECOND READING, CONCURRED IN.
MARCH 16, 1987	THIRD READING, CONCURRED IN. AYES, 76; NOES, 18.
	RETURNED TO SENATE.
	IN THE SENATE
MARCH 17, 1987	RECEIVED FROM HOUSE.

SENT TO ENROLLING.

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2	INTRODUCED BY	~ Me &	allum	Doest	ed .	_
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4	A BILL FOR AN ACT ENTITLED.	"AN ACT	EXCLUDING	PADIO	ΔND	

A BILL FOR AN ACT ENTITLED: "AN ACT EXCLUDING RADIO AND TELEVISION STATION ADVERTISING SALESMEN FROM THE OVERTIME COMPENSATION PROVISIONS OF THE STATE WAGE LAWS; AND AMENDING SECTION 39-3-406, MCA."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-406, MCA, is amended to read:

"39-3-406. Exclusions. (1) The provisions of 39-3-404

and 39-3-405 shall not apply with respect to:

- (a) students participating in a distributive education program established under the auspices of an accredited educational agency;
- (b) persons employed in private homes whose duties consist of menial chores such as babysitting, mowing lawns, cleaning sidewalks;
 - (c) persons employed directly by the head of a household to care for children dependent upon the head of the household;
 - (d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;
- 25 (e) any persons not regular employees thereof who

voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

- 3 (f) handicapped workers engaged in work which is 4 incidental to training or evaluation programs or whose 5 earning capacity is so severely impaired that they are 6 unable to engage in competitive employment;
- 7 (g) apprentices or learners, who may be exempted by 8 the commissioner for a period not to exceed 30 days of their 9 employment;
- (h) learners under the age of 18 who are employed as
 farm workers, provided that such exclusion shall not exceed
 a period of 180 days from their initial date of employment
 and further provided that during this exclusion period wages
 paid such learners may not be less than 50% of the minimum
 wage rate established in this part;
- 16 (i) retired or semiretired persons performing 17 part-time incidental work as a condition of their residence 18 on a farm or ranch;
- 19 (j) any individual employed in a bona fide executive, 20 administrative, or professional capacity as these terms are 21 defined and delimited by regulations of the commissioner;
- 22 (k) any individual employed by the United States of 23 America.
- 4 (2) The provisions of 39-3-405 do not apply to:
- 25 (a) an employee with respect to whom the United States



INTRODUCED BILL 58-237

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Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 304;

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- (b) an employee of an employer subject to the provisions of part I of the Interstate Commerce Act:
- (c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state:
 - (d) a salesman, partsman, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers;
 - (e) a salesman primarily engaged in selling trailers, boats, or aircraft if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers;
- 20 <u>(f) a salesman paid on a commission or contract basis</u>
 21 <u>who is primarily engaged in selling advertising for a radio</u>
 22 or television station employer;
 - tf)(g) an employee employed as a driver or driver's helper making local deliveries who is compensated for such employment on the basis of trip rates, or other delivery

payment plan, if the commissioner finds that such plan has the general purpose and effect of reducing hours worked by such employees to or below the maximum workweek applicable to them under 39-3-405;

(g)(h) an employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit and not operated on a sharecrop basis and which are used exclusively for supply and storing of water for agricultural purposes;

(h)(i) an employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee is:

- (i) primarily employed during his workweek in agriculture by such farmer; and
- 19 (ii) paid for his employment in connection with such
 20 livestock auction operations at a wage rate not less than
 21 that prescribed by 39-3-404;
- tip(j) an employee of an establishment commonly recognized as a country elevator, including an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed by the

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(i) (k) a driver employed by an employer engaged in the business of operating taxicabs:

tk+(1) an employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children who are orphans or one of whose natural parents is deceased or who are enrolled in such institution and reside in residential facilities of the institution so long as the children are in residence at the institution and so long as such employee and his spouse reside in such facilities and receive, without cost, board and lodging from the institution and are together compensated, on a cash basis, at an annual rate of not less than \$10,000;

(t)(m) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation terminal if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight;

20 fm)(n) an employee of a sheriff's department who is 21 working under an established work period in lieu of a workweek pursuant to 7-4-2509(1); 22

fn)(o) an employee of a municipal or county government 23 24 who is working under a work period not exceeding 40 hours in a 7-day period established through a collective bargaining 25

agreement when a collective bargaining unit represents the 1 employee or by mutual agreement of the employer and employee 2 where no bargaining unit is recognized. 3 Employment in excess of 40 hours in a 7-day, 40-hour work period must be 4 compensated at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

7 ter(p) an employee of a hospital or other establishment primarily engaged in the care of the sick, disabled, aged, or mentally ill or defective who is working 9 under a work period not exceeding 80 hours in a 14-day period established through either a collective bargaining 11 agreement when a collective bargaining unit represents the 12 employee or by mutual agreement of the employer and employee 13 where no bargaining unit is recognized. Employment in excess of 8 hours per day or 80 hours in a 14-day period 15 must be compensated for at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

tp+(q) a firefighter who is working under a work period established in a collective bargaining agreement entered into between a public employer and a firefighters' organization or its exclusive representative;

22 tq)(r) an officer or other employee of a police 23 department in a city of the first or second class who is working under a work period established by the chief of 24 25 police under 7-32-4118:

try(s) an employee of a department of public safety
working under a work period established pursuant to
7-32-115."

NEW SECTION. Section 2. Extension of authority. Any
existing authority of the commissioner of labor and industry
to make rules on the subject of the provisions of this act
is extended to the provisions of this act.

-End-

APPROVED BY COMM. ON BUSINESS & INDUSTRY

1 INTRODUCED BY Songa Mchallin Travel
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A BILL FOR AN ACT ENTITLED: "AN ACT EXCLUDING RADIO AND TELEVISION STATION ADVERTISING SALESMEN FROM THE OVERTIME COMPENSATION PROVISIONS OF THE STATE WAGE LAWS; AND AMENDING

7 SECTION 39-3-406, MCA."

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- 22 (d) immediate members of the family of an employer or 23 persons dependent upon an employer for half or more of their 24 support in the customary sense of being a dependent;
 - (e) any persons not regular employees thereof who

voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

- 3 (f) handicapped workers engaged in work which is 4 incidental to training or evaluation programs or whose 5 earning capacity is so severely impaired that they are 6 unable to engage in competitive employment;
- 7 (g) apprentices or learners, who may be exempted by 8 the commissioner for a period not to exceed 30 days of their 9 employment;
- 10 (h) learners under the age of 18 who are employed as
 11 farm workers, provided that such exclusion shall not exceed
 12 a period of 180 days from their initial date of employment
 13 and further provided that during this exclusion period wages
 14 paid such learners may not be less than 50% of the minimum
 15 wage rate established in this part;
- 16 (i) retired or semiretired persons performing 17 part-time incidental work as a condition of their residence 18 on a farm or ranch:
- (j) any individual employed in a bona fide executive,
 administrative, or professional capacity as these terms are
 defined and delimited by regulations of the commissioner;
- (k) any individual employed by the United States ofAmerica.
- 24 (2) The provisions of 39-3-405 do not apply to:
- 25 (a) an employee with respect to whom the United States

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- 1 Secretary of Transportation has power to establish 2 qualifications and maximum hours of service pursuant to the 3 provisions of 49 U.S.C. 304;
- 4 (b) an employee of an employer subject to the 5 provisions of part I of the Interstate Commerce Act;
- 6 (c) an individual employed as an outside buyer of 7 poultry, eggs, cream, or milk, in their raw or natural 8 state;
- (d) a salesman, partsman, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers;
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 21 <u>who is primarily engaged in selling advertising for a radio</u>
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- tit(j) an employee of an establishment commonly recognized as a country elevator, including an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed by the

establishment;

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if the number of employees employed by his employer in such
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agreement when a collective bargaining unit represents the employee or by mutual agreement of the employer and employee where no bargaining unit is recognized. Employment in excess of 40 hours in a 7-day, 40-hour work period must be compensated at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

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working under a work period established pursuant to
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-End-

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2	NTRODUCED BY Sonla Mchaller Toures	_
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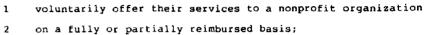
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- (f) handicapped workers engaged in work which is incidental to training or evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in competitive employment;
- (g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed 30 days of their employment;
- (h) learners under the age of 18 who are employed as farm workers, provided that such exclusion shall not exceed a period of 180 days from their initial date of employment and further provided that during this exclusion period wages paid such learners may not be less than 50% of the minimum wage rate established in this part;
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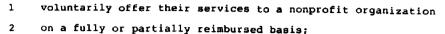
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23 (n)(0) an employee of a municipal or county government
24 who is working under a work period not exceeding 40 hours in
25 a 7-day period established through a collective bargaining

agreement when a collective bargaining unit represents the employee or by mutual agreement of the employer and employee

3 where no bargaining unit is recognized. Employment in

4 excess of 40 hours in a 7-day, 40-hour work period must be

5 compensated at a rate of not less than 1 1/2 times the

hourly wage rate for the employee.

7 to (p) an employee of a hospital or other 8 establishment primarily engaged in the care of the sick, 9 disabled, aged, or mentally ill or defeative.

disabled, aged, or mentally ill or defective who is working under a work period not exceeding 80 hours in a 14-day

ll period established through either a collective bargaining

12 agreement when a collective bargaining unit represents the

employee or by mutual agreement of the employer and employee

where no bargaining unit is recognized. Employment in excess of 8 hours per day or 80 hours in a 14-day period

16 must be compensated for at a rate of not less than 1 1/2

17 times the hourly wage rate for the employee.

18 tp)(q) a firefighter who is working under a work
19 period established in a collective bargaining agreement

20 entered into between a public employer and a firefighters'

21 organization or its exclusive representative;

22 tq)(r) an officer or other employee of a police
23 department in a city of the first or second class who is

24 working under a work period established by the chief of

25 police under 7-32-4118;

to make rules on the subject of this act.

(r)(s) an employee of a department of public safety working under a work period established pursuant to 7-32-115."

NEW SECTION. Section 2. Extension of authority. Any existing authority of the commissioner of labor and industry to make rules on the subject of the provisions of this act is extended to the provisions of this act.

-End-